

**MINUTES OF THE
BUSINESS AND LABOR INTERIM COMMITTEE**
Wednesday, September 21, 2011 – 8:30 a.m. – Room 210 Senate Building

Members Present:

Sen. John L. Valentine, Senate Chair
Rep. James A. Dunnigan, House Chair
Sen. Curtis S. Bramble
Sen. Gene Davis
Sen. David P. Hinkins
Sen. Daniel R. Liljenquist
Sen. Karen Mayne
Sen. Kevin T. Van Tassell
Rep. Jim Bird
Rep. Derek E. Brown
Rep. Brian Doughty
Rep. Susan Duckworth
Rep. Gage Froerer
Rep. Francis D. Gibson
Rep. Eric K. Hutchings
Rep. Don L. Ipson

Rep. Todd E. Kiser
Rep. Bradley G. Last
Rep. Michael T. Morley
Rep. Dixon M. Pitcher
Rep. Jennifer M. Seelig
Rep. Larry B. Wiley
Rep. Brad R. Wilson

Members Absent:

Rep. Melvin R. Brown

Staff Present:

Mr. Bryant R. Howe, Assistant Director
Ms. Patricia Owen, Associate General Counsel
Mr. Robert H. Rees, Associate General Counsel
Ms. Jennifer Christopherson, Legislative Secretary
Ms. Amanda Majers, Legislative Secretary

Note: A list of others present, a copy of related materials, and an audio recording of the meeting can be found at www.le.utah.gov.

1. Committee Business

Chair Dunnigan called the meeting to order at 8:42 a.m.

MOTION: Sen. Valentine moved to approve the minutes of the July 20, 2011 meeting. The motion passed unanimously with Sen. Bramble, Sen. Davis, Rep. Gibson, Rep. Morley, and Rep. Pitcher absent for the vote.

Mr. Howe distributed and explained "Comparisons of Provisions for Licensees of Selected Occupations and Professions for Selected Western States." The Committee commented on the information.

Chair Dunnigan introduced new committee staff member Ms. Christopherson, Legislative Secretary.

2. Sunset Review - Motor Fuel Marketing Act

Mr. Howe distributed "Overview Legislative Oversight and Sunset Act." He stated that the Motor Fuel Marketing Act is included in the Sunset Act and, if the Legislature takes no action to reauthorize this act, it will sunset at the end of next year. He then discussed the Committee's options.

Mr. Gary Thorup, Utah Petroleum Marketers and Retailers Association (UPMRA), stated that the UPMRA believes very strongly in the free market and, in order for free market principles to work correctly, there must be sufficient players in the marketplace. Mr. Thorup stated that the reasons why the Motor Fuel Marketing Act should be reauthorized are competition, conservation, and convenience, and the UPMRA believes that the current Motor Fuel Marketing Act provides all three of these.

Ms. Rolayne Fairclough, UPMRA, distributed and discussed "Historical Price Charts - Utah Gas Prices," "Gas Price Heat Map - Utah Gas Prices," and "Journal of Urban Economics" and responded to questions from the Committee. She stated that increasing prices have put burdens on families and businesses. Through Ms. Fairclough's research, she has been told that our region is considered a separate market from the rest of the country because of transportation costs to bring motor fuel to market and because our lower population numbers result in a lack of competition.

Mr. John Hill, UPMRA, responded to questions from the Committee commenting that there are major players that control the market and that the Motor Fuel Marketing Act protects smaller companies. Mr. Hill stated that it allows for a civil action suit to be filed by a private party.

Mr. David Bell, local fuel merchant, spoke in favor of reauthorizing the Motor Fuel Marketing Act for an additional five years.

Mr. Mike Sullivan, operator of a Chevron convenience store in Orem, spoke in favor of reauthorizing the Motor Fuel Marketing Act for another five years. He stated that this act is essential to ensure a fair and competitive market.

Mr. Perry Taylor, President, Western Petroleum, spoke in favor of reauthorizing the Motor Fuel Marketing Act.

Mr. Brad Randall, President, Randall Distributing, responded to questions from the Committee stating that not every distributor purchases motor fuel from a supplier at the same price. He said there is only one reason to sell below cost and that is to drive out competition in hopes of future gains.

Mr. Mike Wagstaff, President, Holiday Oil, spoke in favor of the Motor Fuel Marketing Act. He stated that it helps ensure that smaller companies can be competitive in the market.

Mr. Derek Monson, Sutherland Institute, spoke against reauthorizing the Motor Fuel Marketing Act, stating that the act protects competitors and not competition.

Mr. David Kirkham, small business owner, spoke against reauthorizing the Motor Fuel Marketing Act, stating that the problem is not the large companies driving small businesses out of business, but government regulation driving everyone out of business.

Mr. Kirk Torgensen, Chief Deputy Attorney General, noted that no private action to enforce the act has ever been invoked.

Mr. Tony Patterson, Commercial Enforcement Division, Attorney General's Office, responded to questions from the Committee.

Mr. John Hill, UPMRA, and Mr. Gary Thorup, UPMRA, made closing comments and responded to questions from the Committee.

MOTION: Rep. Ipson moved to reauthorize the Motor Fuel Marketing Act for five years.

Sen. Van Tassell spoke in favor of reauthorizing for 10 years.

SUBSTITUTE MOTION: Rep. Derek Brown moved to proceed to the next agenda item. The motion failed with Sen. Davis, Sen. Hinkins, Sen. Mayne, Sen. Van Tassell, Rep. Doughty, Rep. Hutchings, Rep. Ipson, Rep. Last, Rep. Pitcher, Rep. Seelig, and Rep. Wiley voting in opposition, with Sen. Bramble, Rep. Duckworth, and Rep. Kiser absent for the vote.

Committee discussion followed.

The original motion passed with Sen. Valentine, Sen. Liljenquist, Rep. Bird, Rep. Derek Brown, Rep. Dunnigan, Rep. Froerer, Rep. Morley, and Rep. Wilson voting in opposition with Sen. Bramble absent for the vote.

3. Prevailing Wage

Sen. Davis expressed concerns about the guest worker law and introduced Dr. Peter Phillips.

Dr. Peter Phillips, Professor of Economics, University of Utah, presented and distributed "Prevailing Wage and Guest Worker Programs." Dr. Phillips said the goal of prevailing wages is to protect citizen and resident alien workers' wages while meeting employer needs. He then responded to questions and comments from the Committee.

4. Medical Spas

Ms. Owen introduced the topic.

Sen. Knudsen provided background on this issue. He said that patient safety is an important issue. Photos of patients who have been injured due to improper use of lasers were distributed.

Dr. David Kohl, M.D., President, Utah Medical Association, spoke concerning the number of patients he and other doctors have seen who have been burned and scarred due to procedures performed at medical spas. He stated that they do not want to take away lasers from these facilities. Rather, they want to make sure proper training is required for all facilities and personnel. Dr. Kohl then responded to questions and comments from the Committee.

Ms. Michelle McOmber, Utah Medical Association, responded to questions from the Committee. She spoke on the level of training and supervision required for estheticians and those who perform laser procedures. She stated that currently, under the Master Esthetician Act, only general supervision is required.

Ms. Candace Daly, Utah Cosmetology Schools Association, discussed the history of esthetician's ability to operate lasers.

Ms. Brenda Scharman, Utah beauty school owner, spoke concerning problems that occur when estheticians are hired as medical assistants. She stated that there needs to be stronger restrictions for training and supervising.

Mr. Mac Haddow, Ideal Image, said that many master estheticians have more training in lasers than some medical professionals. He stated that off-site supervision is the future of medical care. Mr. Haddow then

responded to questions from the Committee.

Ms. Carrie Brinton, President, Elase Medical Spas, responded to questions from the Committee. She stated that physicians who own lasers should be properly trained in their use.

MOTION: Sen. Van Tassel moved to proceed to the next agenda item. The motion passed unanimously, with Sen. Davis absent for the vote.

5. Energy Efficient Construction – Demonstration by the Utah Weatherization Training Center

Mr. Steve Fox, Program Specialist, Intermountain Weatherization Training Center, introduced Mr. Jeff Fullmer.

Mr. Fullmer, Coordinator, State of Utah Weatherization Training Center, spoke concerning energy efficient building and construction. Mr. Fullmer stated that the goal was to train individuals initially at these agencies to be able to perform weatherization functions at the highest level.

Mr. Steve Fox, Program Specialist, Intermountain Weatherization Training Center, spoke concerning building science and the importance of creating boundaries and balance in a home. He then responded to questions from the Committee.

6. Workers' Compensation for Unincorporated Entities

Sen. Mayne spoke concerning 2012 General Session draft legislation, "Workers' Compensation and Unincorporated Entities Amendments" (2012FL-0232/002), previously distributed to the Committee and explained that the bill addressed a workers' compensation issue that arose after the 2011 General Session.

Committee discussion followed.

MOTION: Sen. Valentine moved to adopt as a committee bill draft legislation, "Workers' Compensation and Unincorporated Entities Amendments" (2012FL-0232/002). The motion passed unanimously, with Sen. Davis, Sen. Liljenquist, Rep. Ipson, and Rep. Morley absent for the vote.

7. Wine Tasting

Sen. Ross I. Romero distributed and spoke regarding 2011 General Session S.B. 81, "Alcoholic Beverage Control Act Sampling Amendments." Sen. Romero said that Utah restaurants are serving a more sophisticated clientele. Restaurants want to offer a full menu of not only food but also fine wine and spirits. He said that current state laws governing sampling are cumbersome. Sen. Romero replied to comments from the Committee stating that, if a person or establishment is in violation of the rules set out by the Department of Alcoholic Beverage Control (DABC), they are subject to loss of license. Sen. Romero stated that there is already a permitted mechanism for the sampling of beers, and he believes we should use that mechanism for the sampling of wines onsite, as well.

Mr. Kristian Jelm, State Manager, Youngs Market Company, spoke concerning the difference between the type of sampling that was prohibited in 1975 and the type of sampling that is now being proposed. Mr. Jelm then responded to questions from the Committee.

Mr. Sean Marron, wine director, Talisker, spoke concerning the importance of wine sampling now that we have more world class resorts providing fine wine service. Mr. Marron then responded to questions from the Committee.

8. Other Items / Adjourn

MOTION: Rep. Pitcher moved to adjourn. The motion passed unanimously, with Sen. Bramble, Sen. Hinkins, Sen. Liljenquist, Sen. Van Tassell, Rep. Ipson, Rep. Last, Rep. Morley, and Rep. Wilson absent for the vote.

Chair Dunnigan adjourned the meeting at 12:04 p.m.